

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

HUSSEIN S. HUSSEIN,)	3:07-CV-0056-LRH (VPC)
)	
Plaintiff,)	<u>MINUTES OF THE COURT</u>
)	
vs.)	January 8, 2010
)	
ADELE ERSEK, et al.,)	
)	
Defendants.)	
)	

PRESENT: THE HONORABLE VALERIE P. COOKE, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: LISA MANN REPORTER: NONE APPEARING

COUNSEL FOR PLAINTIFF(S): NONE APPEARING

COUNSEL FOR DEFENDANT(S): NONE APPEARING

MINUTE ORDER IN CHAMBERS:

Before the Court are plaintiff's emergency motion for order to show cause why Sierra Biomedical Research Corporation should not be held in contempt court for failure to comply with a subpoena duces tecum for production of documents (#122) and plaintiff's emergency motion for contempt and enforcement of subpoena duces tecum (#146).

The Department of Veteran's Affairs ("DVA") filed a notice of intent to file a response to motion for order to show cause and motion for contempt (#147). Thereafter, the DVA filed its response (#155) and plaintiff replied (#160).

Having reviewed the papers on file herein, and for good cause appearing, the court denies plaintiff's motion for order to show cause (#122) and motion for contempt (#146). Plaintiff, as a *pro se* litigant, is ineligible to issue a subpoena without the court's endorsement, and he failed to do so. Therefore, the subpoena is defective and unenforceable, and DVA has no obligation to respond to it. *See* Fed.R.Civ.P. 45(a)(3). DVA has also demonstrated that a validly promulgated regulation precludes DVA personnel from producing the requested records without prior written approval of DVA. *See* 38 C.F.R. § 14.806. This regulation applies to Sierra Biomedical Research Corporation, a private non-profit corporation established by DVA. 38 U.S.C. § 7361 *et seq.* Finally, the court finds that the documents requested are not relevant to plaintiff's only surviving claims of defamation against defendants Ersek and Laslo.

Based on the foregoing, plaintiff's motions (#122 and 146) are **DENIED**.

IT IS SO ORDERED.

LANCE S. WILSON, CLERK

By: /s/
Deputy Clerk